92-512

No. 92-

Supreme Court, U.S.
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In The
SUPREME COURT OF THE UNITED STATES
October Term, 1992

UNITED STATES OF AMERICA, ex. rel.,
and
KEVIN M. ASLANIAN; RICHARD L'ITALIEN; GEORGIA UREMOVIC; and CALIFORNIA COALITION OF WELFARE RIGHTS ORGANIZATIONS,

Petitioners,

v.

GEORGE DEUKMEJIAN, Governor, State of California, et. al.

Respondents.

On Writ Of Certiorari To The United States Court Of Appeals For The Ninth Circuit

PETITION FOR WRIT OF CERTIORARI

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Additional Listing of Respondents:

LINDA McMAHON, Director, California State Department of Social Services; **STATE OF CALIFORNIA, DEPARTMENT OF SOCIAL SERVICES;** SACRAMENTO COUNTY, BOARD OF SUPERVISORS; DENNIS HART, Director, Sacramento County Department of Social Services; **SACRAMENTO COUNTY DEPARTMENT OF SOCIAL SERVICES,**

Respondents.

I

QUESTIONS PRESENTED FOR REVIEW

I. Did the Courts in interpreting a statute where there exists conflict among the federal circuits err in interpreting this Congressional Act (31 USC §3730) contrary to the announced legislative intent by ruling these Petitioners-Relators were not proper Qui Tam Plaintiffs as their cause was **"based upon" "publicly disclosed"** information?

II. Was there improper denial of reconsideration and the right of these original sources to amend their Complaint to plead proper pre-filing notification to the United States to satisfy statutory jurisdictional requirements of 31 U.S.C. §3730 (e)(4)(B) as allowed by 28 U.S.C. 1653 and FRCP Rule 12 (b) and Rule 15 (a) and existing case law of this Court?

III. On this important statutory interpretation of 31 U.S.C. §3730, was there sufficient absence of notice and opportunity to be heard in the trial Court so as to constitute a denial of due process under the Vth Amendment?

TABLE OF CONTENTS

		Page
I.	QUESTIONS PRESENTED FOR REVIEW	i
TABLE	OF CONTENTS	iii
TABLE	OF AUTHORITIES	v
II.	PARTIES TO THE PROCEEDING	1
III.	REFERENCE TO REPORT, DECISION OR OPINION	2
IV.	GROUND FOR JURISDICTION OF THIS COURT	2
V.	CONSTITUTIONAL PROVISIONS AND STATUTES AND REGULATIONS INVOLVED.	2
VI.	CONCISE STATEMENT OF THE CASE	4
VII.	DECISION BELOW	6
VIII.	ARGUMENT	
	ARGUMENT NO. I.	7
	A. DISCUSSION OF "BASED UPON"	9
	B. DISCUSSION OF "PUBLIC DISCLOSURE"	12
	ARGUMENT NO. II.	16
	A. DISCUSSION OF DELAY	19
	B. DISCUSSION OF STATUTORY POWER TO AMEND	21

Page

C. DISCUSSION OF POSSIBLE PREJUDICE TO DEFENDANTS 21

D. DISCUSSION OF FUTILITY OF AMENDMENT 22

ARGUMENT NO. III. 23

IX. CONCLUSION 27

TABLE OF AUTHORITIES

Page

CASES

Carson v. Polley 19
689 F.2d 562, 584 (1982)

Coe v. Armour Fertilizer Works 26
237 U.S. 413, 419, 424-425 (1915)
59 L.Ed. 1027; 35 S.Ct. 625

Conley v. Gibson 18,19,27
355 U.S. 41, 48;
22 L.Ed.2d 80; 78 S.Ct. 99 (1957)

Exchange Nat'l Bank of Chicago v. Touche Ross & Co. 26
544 F.2d 1126 (2nd Cir., 1976)

DCD Programs Ltd. v. Leighton 21,22
833 F.2d 183, 186 (1987)

Frasier v. Geneneral Electric Co. 21
930 F.2d 1004, 1008

Foman v. Davis 19
371 U.S. 178; 83 S.Ct.227

Gaffney v. Silk 23
488 F.2d 1248, 1251 (1 Cir., 1973)

Gordon v. Nat'l Youth Work Alliance 27
675 F.2d 356, 361 (D.C. Cir.,1982)

International Brotherhood of Boilermakers v. Local D354 21
897 F.2d 1400, 1402 (7th Cir., 1990)

Page

Jadeszko v. Brennan 20
418 F. Supp. 92 (E. D. PA. 1976)

John Birch Society v. National 21
Broadcasting Co.
377 F.2d 194, 198-199 (2nd Cir., 1967)

Menchaca v. Chrysler Credit 27
Corp.
613 F.2d 507, 511-512 (5th Cir., 1980)
cert. den. 449 U.S. 953 (1980)

Menasco Inc. v. Warren 23
886 F2d 681, 685 (4 Cir., 1989)

Miller v. Stanmore 21
636 F2d 986, 990 (5th Cir.,
1981)

Mullane v. Central Hanover 26
Bank & Trust
339 U.S. 306, 314 (1950);
70 S.Ct. 652

Pennington v. Coxe 9
6 U.S.(2 Cranch) 33,53)

Priestman v. United States 9
4 U.S. (4 Dall) 28, 32; 1 L.Ed. 727

Rodrigue v. Aetna Casualty Co. 20, 23
395 U.S. 352, 354 (1969);
23 L. Ed.2d 360; 89 S.Ct. 1835,

Scott v. Ben 9
10 U.S. (6 Cranch) 3, 3 L.Ed. 135

U.S.A. ex rel., Hagood v. 14
Sonoma County Water Agency
929 F. 2d 1416, 1420 (9th Cir.,
1991)

	Page
U.S.A. ex rel., LaValley v. First National Bank of Boston 707 F. Supp. 1351, 1354 (D.C., Mass. 1988)	8, 15
U.S.A. ex rel., LeBlanc v. Raytheon Co. Inc. 913 F.2d 17, 20 (1st Cir., 1990) cert. denied. 499 U.S. ——— 111 S.Ct. 1312 (1991)	13
U.S.A. ex rel., Stinson, Lyons, Gerlin & Bustamante, P.A. v. Blue Cross Blue Shield of Georgia 755 F. Supp. 1040 (D.C. SD GA 1990)	14
U.S.A. ex rel., Stinson, Lyons, Gerlin & Bustamante, P.A. v. Provident Life & Accident Insurance Co. 721 F. Supp. 1247, 1258 (S.D. Fla. 1989)	13
U.S.A. ex rel., Stinson, Lyons, Gerlin & Bustamante, P.A. v. Prudential Ins. 944 F2d 1149 (3rd Cir., 1991)	14,15
U.S. v. Hougham 364 U.S. 310, 316-317 (1960); 5 L.Ed. 2d 8; 81 S.Ct. 13	22
U.S. ex rel. Williams v. NEC Corp. 931 F.2d 1493, 1499 (11th Cir., 1991)	14
Velidor v. L.P.G. Benghazi 653 F.2d 812, 820 (3d Cir., 1981) cert. denied 102 S. Ct. 1297 (1982)	12

Page

Yellow Bus Lines, Inc. v. Drivers, Chauffeurs & Helpers, Local 639 v. Michael DiPalerno, et. al, 883 F2d 132, 145 (DCA, 1989) 22

CONSTITUTIONS

Constitution of the United States of America

Vth Amendment 23

STATUTES, REGULATIONS

28 U.C.C. §1254 2

28 U.S.C. §1653 21

31 U.S.C. §3729 3

31 U.S.C. §3730(e)(4)(A) 6, 7, 8, 9, 10 12, 16, 24

31 U.S. C. §3730(e)(4)(B) 6, 10, 16, 17 18, 20, 22, 24, 26

42 U.S.C.§670 4

Federal Rules of Civil Procedure

Rule 12 (b) (1) 6, 26

Rule 12 (b) (2) 6

Rule 12 (c) 6

	Page
Rule 15 (a)	6
Rule 56	6, 26
Code of Federal Regulations	
45 C.F.R. §205.10	5
REPORTS	
S. Rep. No. 345, 99th Cong., 2d Sess. 23-24	8

II

PARTIES TO THE PROCEEDING

The parties to the proceeding are:

1. Petitioners on behalf of The United States of America, KEVIN ASLANIAN, RICHARD L'ITALIEN and COALITION OF CALIFORNIA WELFARE RIGHTS ORGANIZATIONS, represented by Grace A. Galligher, 1901 Alhambra Boulevard, 2nd Floor, Sacramento, CA 95816.

2. Petitioner on behalf of the United States of America, GEORGIA UREMOVIC, represented by Peter H. Smurr, 5738 Marconi Avenue, P.O. Box 505, Carmichael, CA 95608.

3. Respondents GEORGE DEUKMEJIAN as Governor of the State of California; LINDA McMAHON, as Director, California State Department of Social Services; CALIFORNIA STATE DEPARTMENT OF SOCIAL SERVICES, represented by Daniel E. Lungren, Attorney General of State of California, 1515 K Street, Sacramento, CA 95814.

4. Respondents SACRAMENTO COUNTY BOARD OF

SUPERVISORS; DENNIS HART as Director of Sacramento County Department of Social Services; and SACRAMENTO COUNTY DEPARTMENT OF SOCIAL SERVICES; represented by Lee Elam, County Counsel of Sacramento, 700 H Street, Suite 2650, Sacramento, CA 95814.

III

REFERENCE TO REPORT, DECISION OR OPINION

The opinion of the Ninth Circuit Court of Appeals was filed on 17 June 1992 and is unreported and is printed in the Appendix filed concurrently herein.

Eastern District orders of 1 November 1990 granting Motion to Dismiss and Order of 7 March 1991 denying Reconsideration.

IV

GROUND FOR JURISDICTION OF THIS COURT

This is a case under 28 U.S.C. §1254 (1) which allows a Writ of Certiorari to be presented to the Supreme Court for its review

after judgment rendered in the Circuit Court of Appeals.

It is further brought under The False Claims Act, 31 U.S.C., §3729, et seq., which provides federal jurisdiction to the Federal Courts.

V.

CONSTITUTIONAL PROVISIONS AND STATUTES AND REGULATIONS INVOLVED.

Vth Amendment to the Constitution
28 U.S.C. §1653
31 U.S.C. §3729
31 U.S.C. §3730
42 U.S.C. §670
42 U.S.C. §671
45 C.F.R. §205.10
45 C.F.R. §1355
45 C.F.R. §1356
Federal Rules of Civil Procedure
Rule 9
Rule 12 (b)
Rule 12 (c)
Rule 15
Rule 56
Rule 59
Federal Rules of Evidence
Rule 302

Rule 501

Civil Code of State of California

§1798.1

Government Code of State of California,

§6250

§6252

Welfare and Institutions Code of State of California

§827

§10850

§10964

VI.

CONCISE STATEMENT OF THE CASE

Petitioners, on behalf of the United States (Relators below) brought a Qui Tam action under the False Claims statute alleging that Respondents State of California and the County of Sacramento, presented false claims for payment to the United States of America by requesting payment for providing required due process "notices" and "fair hearings" which were not in fact provided, and were known not to have been provided. (42 U.S.C. § 670, et

seq.) This lack of "due process" led to many hardships and one known death to recipients of federal child welfare services and the improper receipt of approximately $68,000,000.00 of federal money by Defendants.

Petitioners voluntarily interviewed and officially represented recipients as "authorized representatives" under 45 C.F.R. §205.10.

Petitioners thus became aware that virtually every person they represented had not received notice of their "due process" rights of "notices of action" and/or "administrative fair hearings" contrary to statutory provisions.

Petitioners, after discussing the matter with federal Health and Human Services representatives prepared and filed their Complaint, sent it to the Department of Justice together with supporting information. The Complaint was lodged and sealed in September 1988. After the United States filed

its "Declination of Appearance" in December 1988, the Complaint was served on all parties.

Defendants, during the time that discovery was still open, and no trial date set, filed a multi-faceted dismissal motion.[1] Such motion was granted by the District Court for lack of subject matter jurisdiction[2] by verbal pronouncement in Court which afterwards allowed a ten (10) minute argument to Plaintiffs counsel.

VII

DECISION BELOW

The Decision of the United States Court of Appeals for the Ninth Circuit affirmed the Decision of District Court for the Eastern District of California by holding that Plaintiffs were "original sources" but otherwise affirming the District Court's Order

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[1]FRCP 12(b)(1), (b)(2) or in the alternative FRCP 12(c) or under FRCP 56.

[2] (Failure to meet statutory requirements of 31 U.S.C. §3730(e)(4)

dismissing the Complaint for lack of subject matter jurisdiction, denial of Amended Complaint and denial of Reconsideration.

VIII

ARGUMENT

ARGUMENT NO. I

APPELLANT COURT ERRED IN RULING THAT PETITIONERS WERE NOT PROPER "QUI TAM" PLAINTIFFS BECAUSE THEIR ACTION WAS BASED UPON INFORMATION PUBLICLY DISCLOSED.

The legislative intent, purpose and spirit of 31 U.S.C § 3730(e)(4)(A)[3] demonstrate that this subsection does not bar subject matter jurisdiction in this case. Accepting the Ninth Circuit's holding that Relators are "original sources", are Relators properly excluded as "Qui Tam Plaintiffs" representing the Federal Government solely because some of their information was disclosed to the public?

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[3]31 U.S.C. §3730(e)(4)(A) hereinafter referred to as §(e)(4)(A)

This exclusionary subsection as interpreted in this case potentially destroys one of our most essential federal statutes. While §3730(e)(4)(A) has never been interpreted by the Supreme Court of the United States, it is currently subject to conflicting decisions in at least four Circuits and three district courts.

The legislative intent is most cogently put by the Congressional record. The 1986 Amendments were designed to encourage more private enforcement suits. S. Rep. 345 at 23-24.

The 1982 False Claim Statute retained the bar to subject matter jurisdiction whenever Relators disclosed information relating to false claims to the Federal Government. The 1986 Amendment tried to prevent this from happening. U.S.A. ex rel. LaValley v. First National Bank of Boston, 707 F.Supp. 1351, 1354 (D.C.Mass 1988)

This Court has overwhelmingly held that a

legislative act is to be interpreted according to the intention of the legislature. Priestman v. United States, 4 U.S. (4 Dall) 28,32, and that it is the duty of the Court to discover the intention of the legislature and to respect that intention. Pennington v. Coxe, 6 U.S. (2 Cranch) 33,53. Further, the provision of a statute ought not to be so construed as to defeat its object unless the language be such as absolutely to require such construction. Scott v. Ben, 10 U.S.(6 Cranch) 3 (1810).

A. DISCUSSION OF "BASED UPON".

The District Court and the Ninth Circuit Court of Appeals held that Relators are within the exclusion of §(e)(4)(A). The District Court determined that Relators Complaint was based on what appeared to be public documents. The District Court further found that Relators (1) were not original sources, and (2) did not voluntarily provide the information to the Government before filing the complaint.

The Ninth Circuit Court affirmed the District Court's finding that the information underlying Plaintiffs' claims was publicly disclosed by Plaintiffs prior to the filing of the action. Paradoxically, the Appellate Court did find that Relators **were "original sources"** since they did possess direct and independent knowledge. Both Courts held that Plaintiffs failed to voluntarily provide the information to the Government before filing the complaint as required by 31 U.S.C.§3730 (e)(4)(B).

31 U.S.C. § 3730(e)(4)(A) bars federal court jurisdiction in certain cases. It states:

> "No court shall have jurisdiction over an action under this section based upon the public disclosure of allegations or transactions in a criminal, civil, or administrative hearing, in a congressional, administrative, or Government Accounting Office report, hearing, audit, or investigation, or from the news media, unless the action is brought by the Attorney General or the person bring the action is an original source of the information."

Contrary to the holdings of both the District Court and Court of Appeal this language does not bar complaints where incidental public disclosures were made but were not the "basis" or "source" of the false claims complaint. The facts contained in this Complaint are not "based upon" any "public disclosure" since Relators possessed independent knowledge of the facts and allegations outside of any "public disclosures."

The term "based upon" denotes a point of origin from which a chain of events unwinds. Here, the point of origin was the personal research and investigation of each Relator. **The Complaint that relators filed was based on direct and independent research and investigations which each Relator, either separately or together conducted over a period of four years.** From that origin, relators (1) requested administrative "fair" hearings which caused decisions to be issued, (2) filed the

Shea complaint, and (3) had a newspaper article published. The Courts below held these actions excluded Plaintiffs.

Several federal courts have defined the term "based on" so as to require this direct and causal nexus between the act and the complaint. Velidor v. L.P.G.Benghazi, 653 F2d 812, 820 (3d Cir., 1981).

It is illogical for the District Court to determine that the nexus and the source of this false claims complaint was information which Relators caused to be published. The published information cannot be said to be the foundation of the Complaint; rather, the published information itself is an end product of the same investigation and research efforts by the Relators which resulted in the Relators Complaint.

B. DISCUSSION OF "PUBLIC DISCLOSURE".

Publication of general, non specific information is outside the exclusionary bar of §(e)(4)(A) when it does not necessarily lead

to the discovery of specific individual fraud which is the target of the qui tam complaint. U.S.A ex rel Stinson, Lyons, Gerlin & Bustamante, P.A. v. Provident Life & Accident Insurance Co., 721 F.Supp. 1247, 1258 (S.D. Fla. 1989). Two Circuits, First and Eleventh, apparently would not have applied the §(e)(4)(A) exclusion to Petitioners' case herein. The Court of Appeals in at least four circuits and three district courts have considered what constitutes "public disclosure" for purposes of the jurisdictional bar with contradictory results. The First Circuit generally considered what §(e)(4)(A) barred in USA ex rel LeBlanc v. Raytheon Co. Inc. 913 F2d 17 (1st Cir. 1990). The issue facing this court was whether there is a jurisdictional bar whenever a government employee is the Relator. It does not deny jurisdiction over actions based on disclosures other than those specified in the statute. LeBlanc. Id. at 20.

The Ninth Circuit Court held §(e)(4)(A) "remarkably explicit" and a qui tam action is barred only if based upon information disclosed in

> "... a congressional, administrative, or Government Accounting Office report, hearing, audit, or investigation..." USA ex rel. Hagood v. Sonoma County Water Agency, 929 F.2d 1416, 1420 (9th Cir. 1991).

The Eleventh Circuit stated the list of methods of "public disclosure" is specific, Complete and not examples of the types of "public disclosures" to which the jurisdictional bar would apply. U.S. ex. rel. Williams v. NEC Corp. 931 F.2d 1493,1499 (11th Cir., 1991).

The Georgia District Court in U.S.A. ex rel. Stinson, Lyons, Gerlin & Bustamante, P.A. v. Blue Cross Blue Shield of GA., 755 F.Supp. 1040 (DC SD GA, 1990), having virtually the same facts before it as the Prudential Court, entered an entirely different decision. (Id. at 1048.) The Blue Cross District Court

concluded that the language following the term "public disclosure" limits that phrase; narrowing the jurisdictional exclusion.

The District Court in U.S.A. ex rel. LaValley v. First National Bank of Boston, 707 F.Supp. 1351 (D.C.Mass, 1988) noted that there is subject matter jurisdiction when the sources of the information were obtained **independently from** many investigations by each Relator who initiated a False Claims action.

USA ex rel. Stinson, Lyons, Gerlin & Bustamante, P.A. v. Prudential Ins., 944 F.2d 1149 (3rd Cir. 1991). The Court looked beyond the purported design of the statute as a whole and the Court interpreted the public disclosures broadly to include allegations and information disclosed in connection with any civil, criminal, or administrative litigation. Id. at 1155, 1156.

Reviewing each of the above cited cases, no Court has held, as did the District Court and the Ninth Circuit Court of Appeals, that

so little public disclosure caused the activation of the exclusionary bar of §3730(e)(4)(A) as did the case herein.

ARGUMENT NO. II.

THERE WAS IMPROPER DENIAL OF THE RIGHT OF THESE ORIGINAL SOURCES TO AMEND THEIR COMPLAINT TO PLEAD PROPER PRE-FILING NOTIFICATION TO THE UNITED STATES TO SATISFY STATUTORY JURISDICTIONAL REQUIREMENTS.

On 14 September 1990 the issue under 31 USC §3730(e)(4)(B)[4] requiring original sources to provide pre-filing communication of the facts of the case to the Federal Government was stated in the Federal Amicus Brief.

At this time, Relators Opposition to Motion to Dismiss together with their Affidavits and documents had been previously filed by 27 July 1990.[5] Prior to the 9 July 1990 Motion to Dismiss, Defendants had

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[4]31 USC §3730(e)(4)(B) is referred to hereinafter as §(e)(4)(B).

[5]Plaintiffs' Opposition contained a request to amend Plaintiffs' pleadings if any jurisdictional defect were found.

accepted jurisdiction; as such, the State requested and was granted the right to cross-claim to seek Declaratory Relief against the County.

After 27 July 1990 the District Court provided no direction, or permission to introduce further documentary evidence to cure any jurisdictional defect. The Court's only direction to parties was that they provide "replies" to the Amicus Brief. No one submitted any documentary evidence with their replies.[6]

The District Court began the hearing by announcing, before argument was allowed, that it had determined that the 12 (b) Motion to Dismiss should be granted. The Court's decision included the finding that the "Plaintiffs were not original sources" and had not given the required §(e)(4)(B) pre-filing

[6]Plaintiff Uremovic in this reply again requested the right to amend if any jurisdictional defect were found.

communication.

Later, on Reconsideration, a proposed Amended Complaint alleging communication of required facts to the Federal Government was supported by an Affidavit showing this pre-filing communication. The right of Plaintiffs to amend was denied on the grounds that it was late.

The Ninth Circuit altered the District Court's ruling and determined that Plaintiffs "were original sources."

Accepting the finding of the Ninth Circuit that Plaintiffs were "original sources" an amendment which alleges a pre-filing communication to the Federal Government satisfying §3730 (e)(4)(B) would not be futile but would be a thoroughly corrective amendment curing jurisdiction.

The law of the Supreme Court of the United States, Circuit Courts and District Courts, overwhelmingly supports the granting of requests to amend, as stated in Conley v.

Gibson, 355 U.S. 41, 48 (1975):

> "This and the other federal rules 'reject the approach that pleading is a game of skill in which one misstep by counsel may be decisive to the outcome and accept the principal that the purpose of pleading is to facilitate a proper decision on the merits.' "

In the absence of any apparent or declared reason, such as undue delay by movant; undue prejudice to the opposing party by virtue of allowance of amendment; futility of amendment; etc., the leave sought should, as the rules require, be "freely given." Foman v. Davis, 371 U.S. 178 (1962), or as stated by the Fifth Circuit case of Carson v. Polley, 689 F2d 562, 584 (1982):

> "Unless there is a substantial reason to deny leave to amend, the discretion of the District Court is not broad enough to permit denial."

A. DISCUSSION OF DELAY.

This proposed amendment was the first amendment presented by the Plaintiffs.

Moreover the alleged jurisdictional defect, i.e., prior notification by an original source was never raised by a party herein. When the issue was first mentioned by Amicus, Plaintiffs had timely requested (1) the right to amend and (2) before the hearing on Reconsideration had served and lodged with the Court a proposed Amended Complaint to cure this supposed defect. Any delay in considering §(e)(4)(B) pre-filing communication was not caused by the Plaintiffs but by choice and omission of the Defendants.

Even a late amendment to cure a jurisdictional defect has not been considered a necessarily prejudicial delay when made during or after a dismissal, see Rodrigue v. Aetna Casualty Co., 395 U.S. 352, 354 (1969) and that such an amendment is permissible under FRCP Rule 15 (a) where requested within a Memorandum of Opposition to Defendants Motion to Dismiss, see Jadeszko v. Brennan, 418 F.Supp. 92 (E.D. PA, 1976), and after

dismissal, Second Circuit case, Frasier v. Gen. Elect. Co., 930 F.2d 1004, 1008.

B. DISCUSSION OF STATUTORY POWER TO AMEND

The statutory power to amend a defect in jurisdiction, 28 U.S.C. §1653, has been used regularly in modern Circuit Court cases. International Brotherhood of Boilermakers v. Local D354 897 F.2d 1400, 1402 (7th Cir., 1990,); Miller v. Stanmore 636 F.2d 986, 990, (5th Cir.,1981) and John Birch Society v. National Broadcasting Co., 377 F.2d 194, 198-199 (2nd Cir., 1967).

C. DISCUSSION OF POSSIBLE PREJUDICE TO DEFENDANTS.

As in this case where discovery and a trial date were still open, even the Ninth Circuit has held:

> "...an action should not be dismissed for lack of jurisdiction without giving the Plaintiff an opportunity to be heard unless it is clear the deficiency cannot be overcome by amendment."
> DCD Programs Ltd v. Leighton
> 833 F. 2d 183, 186 (1987)

Mere reciting of prejudice is not sufficient

to justify a refusal to amend. U.S. v. Hougham, 364 U.S. 310, 316 (1960). As stated in DCD Programs Ltd v. Leighton, supra, and Yellow Bus Lines, Inc., v. Drivers, Chauffeurs & Helpers, Local 639, 883 F.2d 132 (DCA 1989) where a case is still in the discovery stage, as in this case, there is ample time available for trial preparation, there is little prejudice to the other side and amendment should be allowed.

D. DISCUSSION OF FUTILITY OF AMENDMENT.

An amendment is not futile if it cures a jurisdictional defect found by the District Court and Court of Appeals. While the District Court held that Plaintiffs did not qualify under §(e)(4)(B) as "original sources"; the Plaintiffs had asserted they were "original sources" and the Ninth Circuit determined that the Plaintiffs were "original sources", so an amendment alleging pre-filing communication to the Federal Government would cure any jurisdictional defect and give the Court

subject matter jurisdiction. Such curative amendment should be granted even after a Motion to Dismiss, Gaffney v. Silk, 488 F.2d 1248, 1251 (1 Cir., 1973) and Menasco Inc. v. Warren, 886 F.2d 681, 685 (4 Cir., 1989) and Rodrique v. Aetna Casualty Co., supra, where a jurisdictional amendment was allowed after dismissal.

The matter should be remanded.

ARGUMENT NO. III

THERE WAS SUFFICIENT ABSENCE OF NOTICE AND OPPORTUNITY TO BE HEARD IN THE DISTRICT COURT SO AS TO CONSTITUTE A DENIAL OF DUE PROCESS UNDER THE VTH AMENDMENT.

Defendants' Motion to Dismiss combined many widespread challenges including lack of subject matter jurisdiction for failure to meet the requirements of §(e)(4)(B); lack of subject matter jurisdiction under §(e)(4); a defect under Rule 9 (b); no jurisdiction on the ground of XIth Amendment; and no triable issue of fact under Rule 56.

There was an absolute failure to indicate that there was going to be an attack under §3730 (e)(4)(B) regarding the pre-filing communication to the Federal Government of the general facts regarding the wrongdoing.

The primary attack made by the Defendants was that Plaintiffs were not "original sources" as that title of "original sources" is stated in §(e)(4)(A).

When Plaintiffs' counsel entered the Courtroom expecting the full evidentiary hearing pursuant to their written request, they had received no prior notice of the Court's intended decision. The Court's first statement was that it had tentatively decided to grant the Defendants Motion to Dismiss and allowed the Plaintiffs two counsel a total of ten minutes to present their entire case.

Due to the original lack of notice that pre-communication under §(e)(4)(B) was to be challenged as a defect at any time before closing or time to submit a response to

Defendants Motion, Plaintiffs had not addressed that issue and had no notice so as to present a written motion to amend.

Plaintiffs next opportunity to be heard was the date set for the Motion to Reconsider. Plaintiffs offered a proposed Amended Complaint, which had been served and lodged, and new evidence by way of a dated, signed, federal letter to Plaintiffs disclosing communication of the problems three months before filing of the Complaint. The new evidence offered to the District Court and the Ninth Circuit was as follows:

> "23 May 1988"
> "Dear Ms. Uremovic,"
> "We look forward to receipt of your letter concerning the situations you described in our phone conversation today."
> ...
> "We do conduct periodic reviews for both compliance and fiscal integrity of State/local foster care and adoption programs."
> [Signed] "Ray Myrick
> Chief, Children's Bureau
> Administration for Children, Youth and Families"
> Citing ACYF-IM-85-25, ACYF-PI-86-03

The Courts simply refused this evidence as new evidence.

The lack of (1) of notice of the attack on §3730(e)(4)(B); (2) absence of the notice of any intended decision of the Court; (3) the right to a full and meaningful hearing as requested in writing; (4) the right to present evidence after notice of its need; (5), the right to have a timely written, lodged Amended Complaint accepted; (6) as well as the right to present new evidence; violated procedural due process required under the Vth Amendment. Coe v. Armour Fertilizer Works, 237 U.S. 413, 419, 424-425 (1915) and Mullane v. Central Hanover Bank & Trust, 339 U.S. 306,314 (1950).

FRCP Rule 12(b)(1) requires procedural safeguards equivalent to those in Rule 56, with Rule 56 used selectively as a guide to ensuring fairness. Exchange Nat'l Bank of Chicago v. Touche Ross & Co., 544 F2d 1126 (2nd Cir., 1976). FRCP Rule 12 (b)(1) allows a court to hold a hearing and resolve

conflicting testimony against the plaintiff, Menchaca v. Chrysler Credit Corp., 613 F.2d 507, 511-512 (5th Cir.) cert. den. 449 U.S. 953 (1980) otherwise, the dismissal can be sustained only if it meets the standard for dismissal without regard to matters outside the pleading. Gordon v. Nat'l Youth Work Alliance, 675 F.2d 356, 361 (D.C. 1982) citing Conley v. Gibson, 355 U.S. 41, 45-46 (1975).

Plaintiffs request due process.

VIII.

CONCLUSION

Petitioners herein pray that a Writ of Certiorari issue to review the judgments below.

Respectfully submitted,

Grace A. Galligher,
Attorney for Kevin Aslanian, Richard L'Italien and Coalition of California Welfare Rights Organizations

Peter H. Smurr,
Attorney for Georgia Uremovic,
Member of the Bar of the Supreme Court of the United States

UNITED STATES OF AMERICA, ex. rel., and KEVIN M. ASLANIAN; et al.,	)	
Petitioners,	)	ENTRY OF
v.	)	APPEARANCE
GEORGE DEUKMEJIAN, Governor, State of California, et. al.,	)	
Respondents.	)	

PETER H. SMURR, a member of the Bar of the State of California and the United States Supreme Court does make an entry of appearance for the purpose of filing, briefing and arguing this Petition for Writ of Certiorari and subsequent matters and does make this document an entry of appearance for all purposes.

Peter H. Smurr

CERTIFICATE OF SERVICE

I, Diane Aslanian hereby declare that on 14/5 September 1992, I served copies of the foregoing PETITION FOR WRIT OF CERTIORARI on the following:

Daniel Lungren
Attorney General
State of California
1515 K Street
Sacramento, CA 95814

Solicitor General
Department of Justice
Washington, D.C. 20543

Lee Elam
County Counsel
700 H Street, Suite 2650
Sacramento, CA 95814

Lucy Eldridge
Linda Anderson
U.S. Department of Justice
P.O. Box 261
Washington, D.C. 20044

by placing a true copy thereof enclosed in a sealed envelope, with postage thereon fully prepaid, in the United States mail at Sacramento, California.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on 14/5 September 1992 at Sacramento, California.

Diane Aslanian